

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GEMINI TRUST COMPANY, LLC,

Defendant.

No. 22-cv-4563 (AKH)

Hon. Alvin K. Hellerstein

**DECLARATION OF JOHN F. BAUGHMAN
IN SUPPORT OF MOTION TO COMPEL**

John F. Baughman, an attorney duly admitted to the practice of law before the courts of New York and the Southern District of New York, declares pursuant to 28 U.S.C. § 1746:

1. I am an attorney at JFB Legal, PLLC, counsel to Defendant Gemini Trust Company, LLC (“Gemini”), in the above-captioned action. I submit this declaration in support of Gemini’s Motion to Compel.

2. All statements herein are based on my personal knowledge, publicly filed records, and the records and documents contemporaneously made and regularly maintained and utilized in the ordinary course of business of my firm.

3. Attached as Exhibit 1 is the Self Certification Letter submitted by Cboe Futures Exchange (“CFE”) to the Commodity Futures Trading Commission (“CFTC”), dated December 31, 2017.

4. Attached as Exhibit 2 is a Presentation submitted by CFE to CFTC, dated July 25, 2017.

5. Attached as Exhibit 3 is an August 25, 2017 document containing answers to questions from CFTC.

6. Attached as **Exhibit 4** is a document published by CFTC titled “Q&A – Core Principles and Other Requirements for Designated Market Contracts.”

7. Attached as **Exhibit 5** is a witness statement submitted by Benjamin Small in *Henderson & Jones Ltd. v. Benjamin Small*, No. CL-2023-000043 (EDW Comm).

8. Attached as **Exhibit 6** is the Form 302 from the Federal Bureau of Investigation (“FBI”) interview of Christopher Goodman, dated January 6, 2020.

9. Attached as **Exhibit 7** is the Form 302 from the first FBI interview of Gregory Kuserk, dated August 27, 2019.

10. Attached as **Exhibit 8** is the Form 302 from the second FBI interview of Gregory Kuserk, dated January 14, 2020.

11. Attached as **Exhibit 9** is the Form 302 from the FBI interview of Amir Zaidi, dated August 7, 2019.

12. Attached as **Exhibit 10** is the Form 302 from the FBI interview of Thomas Leahy, dated January 6, 2020.

13. Attached as **Exhibit 11** is the Form 302 from the FBI interview of Phillip Colling, dated January 14, 2020.

14. Attached as **Exhibit 12** is a letter from counsel for CFTC to counsel for Gemini, dated November 16, 2022.

15. Attached as **Exhibit 13** is a transcript of the status conference hearing held before this Court on March 22, 2023.

16. Attached as **Exhibit 14** is a letter from counsel for CFTC to counsel for Gemini, dated April 14, 2023.

17. Attached as **Exhibit 15** are excerpts from the transcript of the deposition of

Christopher Goodman, dated August 25, 2023.

18. Attached as Exhibit 16 are excerpts from the transcript of the deposition of Gregory Kuserk, dated August 23, 2023.

19. Attached as Exhibit 17 is Appendix C to “CFTC Core Principles & Other Requirements,” published in Volume 77, No. 118 of the Federal Register, dated June 19, 2012.

20. Attached as Exhibit 18 is a CFTC publication titled “CFTC Backgrounder on Self-Certified Contracts for Bitcoin Products,” dated December 1, 2017.

21. Attached as Exhibit 19 is a CFTC Release titled “CFTC Statement on Self-Certification of Bitcoin Products by CME, CFE and Cantor Exchange,” No. 7654-17, dated December 1, 2017.

22. Attached as Exhibit 20 is a transcript of the status conference hearing held before this Court on February 13, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
September 12, 2023

By: /s/ John F. Baughman
John F. Baughman